

REMARKS/ARGUMENTS

Status of the Claims

Claims 28-58, 82 to 120 were previously pending in this application. Claim 52 is canceled without prejudice. Claims 28, 42, 50, 53 to 55, 57, 58, and 91 are amended. After entry of these amendments, claims 28 to 51, 53 to 58, 82 to 120 will be pending.

Claim 91 stands rejected under 35 U.S.C. §112, first paragraph, as allegedly not satisfying the written description requirement with respect to the "colony stimulating factor" subject matter.

Amendments to the Claims

The amendments to claims 28, 42, 50, and 53 to 55 more clearly set forth the carbon atoms linking the cholate and deoxycholate rings with the remainder of the molecule. Support can be found in the previous version of the claims as well as in original dependent claims 56 to 58 which illustrate such subject matter.

Claims 57 and 58 were amended to conform with their antecedent basis in claim 42.

Claim 52 was amended to delete the last recited element. Support for this subject matter can be found in the claim from which it depends which recites X1 and X2 can be independently selected from a two-member Markush group setting forth the selected member of claim 52.

Support for the subject matter of claim 91 is found in the previous version of the claim and in the specification at page 14, lines 25 to 30 and as discussed further below.

In view of the above, the Applicants believe the amendments to the claims add no new matter and respectfully request their entry.

Response to the Written Description Rejection

Claim 91 stands rejected as allegedly lacking adequate written description of a "gene encoding a colony stimulating factor." The Office Action cites page 14, lines 29 to 29, as

providing support only for "colony stimulating factors" as opposed to a gene encoding a colony-stimulating factor.

The full sentence at issue recites:

Examples of such therapeutic genes include, but are not limited to, tumor suppressor genes, suicide genes, antisense nucleic acid molecules, triplex forming nucleic acid molecules, genes encoding cytokines (such as but not limited to the interferons α , β , δ , and γ), genes encoding interleukins (e.g., IL-1, IL-2, IL-4, IL-6, IL-7 and IL-10), and colony stimulating factors such as GM-CSF.

The interpretation of the Office Action appears to focus on the last two lines of the admittedly long sentence and particularly the last comma of the sentence which separates the interleukin subject matter recital from the colony stimulating subject matter recital. However, the preamble of the sentence recites "*Examples of such genes include...*". In view of this preamble, and by operation of the normal rules of grammar, one of ordinary skill in the art would appreciate that all the subject matter which follows in this sentence relates to genes and, accordingly, readily construe the sentence as setting forth colony stimulating factor genes rather than colony stimulating factor proteins.

Accordingly, the Applicants respectfully request the above rejection be reconsidered and withdrawn.

Appl. No. 10/055,863
Amdt. dated October 23, 2006
Reply to Office Action of June 23, 2006

PATENT

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 925-472-5000.

Respectfully submitted,



Frank J. Mycroft
Reg. No. 46946

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 925-472-5000
Fax: 415-576-0300
Attachments

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